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State Bar Court of California Hearing Department Los Angeles ACTUAL SUSPENSION		
Counsel For The State Bar Diane J. Meyers Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1496 Bar # 146643	Case Number(s): 12-O-11702	For Court use only FILED MAY 15 2013 P.B. STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In Pro Per Respondent Christopher A. Radlinski 45831 Corte Carmello Temecula, CA 92592 (951) 302-3635 Bar # 82563	Submitted to: Assigned Judge Settlement STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter of: Christopher A. Radlinski Bar # 82563 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted November 29, 1978.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 14 pages, not including the order.



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- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ Until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 5.130, Rules of Procedure.
 - ☒ Costs are to be paid in equal amounts prior to February 1 for the following membership years: the two billing cycles immediately following the effective date of the Supreme Court's order in this matter. (Hardship, special circumstances or other good cause per rule 5.132, Rules of Procedure.) If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.
 - ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
 - ☐ Costs are entirely waived.

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
 - (a) ☒ State Bar Court case # of prior case 92-O-10099 and 92-O-17637
 - (b) ☒ Date prior discipline effective January 14, 1995
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code sections 6106, 6125, 6126 and 6127 and Rules of Professional Conduct, rules 1-300(B), 3-700(B)(2), 4-100(A) and 4-100(B)(4)
 - (d) ☒ Degree of prior discipline a 30-day actual suspension, a one-year stayed suspension and a two-year probation
 - (e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

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- (4) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. See Attachment at p. 11.
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

See Attachment at p. 11.

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.

- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

See Attachment at pp. 11-12.

D. Discipline:

(1) ☒ **Stayed Suspension:**

- (a) ☒ Respondent must be suspended from the practice of law for a period of one year.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:
- (b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of two years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

- (a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of 60 days.
- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in the general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

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- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
 - ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
 - ☐ Substance Abuse Conditions ☐ Law Office Management Conditions
 - ☐ Medical Conditions ☒ Financial Conditions

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National

Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 5.162(A) & (E), Rules of Procedure.**

☐ No MPRE recommended. Reason:

- (2) ☐ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

In the Matter of: Christopher A. Radlinski	Case Number(s): 12-O-11702
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Financial Conditions

a. Restitution

- ☐ Respondent must pay restitution (including the principal amount, plus interest of 10% per annum) to the payee(s) listed below. If the Client Security Fund ("CSF") has reimbursed one or more of the payee(s) for all or any portion of the principal amount(s) listed below, Respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

Payee	Principal Amount	Interest Accrues From

- ☐ Respondent must pay above-referenced restitution and provide satisfactory proof of payment to the Office of Probation not later than

b. Installment Restitution Payments

- ☐ Respondent must pay the above-referenced restitution on the payment schedule set forth below. Respondent must provide satisfactory proof of payment to the Office of Probation with each quarterly probation report, or as otherwise directed by the Office of Probation. No later than 30 days prior to the expiration of the period of probation (or period of reprobation), Respondent must make any necessary final payment(s) in order to complete the payment of restitution, including interest, in full.

Payee/CSF (as applicable)	Minimum Payment Amount	Payment Frequency

- ☐ If Respondent fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

c. Client Funds Certificate

- ☐ 1. If Respondent possesses client funds at any time during the period covered by a required quarterly report, Respondent must file with each required report a certificate from Respondent and/or a certified public accountant or other financial professional approved by the Office of Probation, certifying that:
- Respondent has maintained a bank account in a bank authorized to do business in the State of California, at a branch located within the State of California, and that such account is designated as a "Trust Account" or "Clients' Funds Account";

b. Respondent has kept and maintained the following:

- i. A written ledger for each client on whose behalf funds are held that sets forth:
 1. the name of such client;
 2. the date, amount and source of all funds received on behalf of such client;
 3. the date, amount, payee and purpose of each disbursement made on behalf of such client; and,
 4. the current balance for such client.
- ii. a written journal for each client trust fund account that sets forth:
 1. the name of such account;
 2. the date, amount and client affected by each debit and credit; and,
 3. the current balance in such account.
- iii. all bank statements and cancelled checks for each client trust account; and,
- iv. each monthly reconciliation (balancing) of (i), (ii), and (iii), above, and if there are any differences between the monthly total balances reflected in (i), (ii), and (iii), above, the reasons for the differences.

c. Respondent has maintained a written journal of securities or other properties held for clients that specifies:

- i. each item of security and property held;
- ii. the person on whose behalf the security or property is held;
- iii. the date of receipt of the security or property;
- iv. the date of distribution of the security or property; and,
- v. the person to whom the security or property was distributed.

2. If Respondent does not possess any client funds, property or securities during the entire period covered by a report, Respondent must so state under penalty of perjury in the report filed with the Office of Probation for that reporting period. In this circumstance, Respondent need not file the accountant's certificate described above.
3. The requirements of this condition are in addition to those set forth in rule 4-100, Rules of Professional Conduct.

d. Client Trust Accounting School

- ☒ Within one (1) year of the effective date of the discipline herein, Respondent must supply to the Office of Probation satisfactory proof of attendance at a session of the Ethics School Client Trust Accounting School, within the same period of time, and passage of the test given at the end of that session.

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: Christopher A. Radlinski

CASE NUMBER(S): 12-O-11702

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 12-O-11702 (Complainants: Arnold and Connie Venti)

FACTS:

1. In July 2010, Arnold and Connie Venti ("the Ventis") employed Respondent to file and handle their Chapter 13 bankruptcy.
2. On December 28, 2010, Respondent filed a Chapter 13 petition on behalf of the Ventis in the United States Bankruptcy Court, Central District (the "Central District"), case number 6:10-bk-51483 (the "Venti bankruptcy").
3. On February 4, 2011, Respondent charged and the Ventis paid Respondent \$500 as fees to convert the Venti bankruptcy to a Chapter 7 petition.
4. Respondent did not disclose to the bankruptcy court his receipt of the \$500 fee to convert the Venti bankruptcy to a Chapter 7 petition pursuant to 11 U.S.C. §329(a) and Bankruptcy Rule 2016, and did not obtain the bankruptcy court's approval for the \$500 fee.
5. In or about October 2010, Respondent advised Arnold that his company, Venti Construction, Inc. ("VCI"), should file for bankruptcy relief. The Ventis employed Respondent to file a bankruptcy petition for VCI. In October 2010, the Ventis advanced \$299 as filing fees for the corporate bankruptcy.
6. On March 23, 2010, Stephen and Mary Bache ("the Baches"), husband and wife, filed a Chapter 7 bankruptcy case in the United States Bankruptcy Court, Southern District (the "Southern District"), case number 10-04577-LA7 (the "Bache bankruptcy"). The Ventis alleged that the Baches owed a debt to the Ventis. On June 22, 2010, the Southern District entered a discharge order in the Bache bankruptcy. On June 25, 2010, the Southern District closed the Bache bankruptcy case.
7. In February 2011, the Ventis hired Respondent to review the Bache bankruptcy case and to file a motion to reopen the Bache bankruptcy on the ground that the Ventis were not given proper notice of the Bache bankruptcy. If the motion to reopen was granted, Respondent was to file an adversary complaint to collect the debt owed to the Ventis.

8. Between February 8 and March 8, 2011, Connie Venti advanced funds to Respondent for attorney fees and costs to file the motion to reopen and the adversary complaint. From the funds received by Respondent, \$260 was designated for filing fees to file the motion to reopen and \$250 was designated for filing fees to file the adversary complaint.

9. In November 2011, the Ventis terminated Respondent's employment. Respondent performed work in preparation of the corporate bankruptcy before the Ventis decided not to pursue the corporate bankruptcy. Respondent also performed work in reference to the motion to reopen and the adversary complaint. However, Respondent did not file the corporate bankruptcy petition, a motion to reopen, or the adversary complaint for the Ventis before they terminated his employment. Consequently, Respondent did not incur any filing fees.

10. On March 19, 2012, attorney Rick Von Drak ("Von Drak"), on behalf of the Ventis, requested that Respondent return the \$500 in fees paid to convert the bankruptcy to a Chapter 7, \$299 advanced for the filing fees for the corporate bankruptcy and \$510 advanced for the filing fees related to the Bache matter to the Ventis. Respondent did not return the \$500, \$299 or \$510 to the Ventis. Respondent did not return the \$500 fee because of his mistaken belief that he was not required to obtain court approval of the fees. Respondent did not return the advanced costs to the Ventis because of his mistaken and unreasonable belief that he could apply the advanced costs to Respondent's claimed fees for his representation. In March 2012, Respondent also addressed the Ventis request for a refund of unearned fees. Respondent provided the Ventis with a detailed accounting of the services rendered, dated March 2, 2012, and maintained the position that he had earned more than the amount received.

11. On January 31, 2013, Respondent paid \$1,577.78 to the Ventis as reimbursement of the \$500 fee collected to convert the Venti bankruptcy to a Chapter 7 petition, the \$299 advanced for the filing fees for the corporate bankruptcy, and the \$510 advanced for the filing fees related to the Bache matter, plus \$268.78 in interest calculated at 10% per year through January 31, 2013.

CONCLUSIONS OF LAW:

12. By not disclosing his receipt of \$500 to convert the Venti bankruptcy to a Chapter 7 petition pursuant to 11 U.S.C. §329(a) and Bankruptcy Rule 2016 and by not obtaining court approval for his collection of the \$500, Respondent charged and collected an illegal fee, in wilful violation of Rules of Professional Conduct, rule 4-200(A).

13. By not returning \$299 and \$510 to the Ventis until January 31, 2013, Respondent failed to pay promptly, as requested by a client, any funds in Respondent's possession which the client is entitled to receive, in wilful violation of Rules of Professional Conduct, rule 4-100(B)(4).

ADDITIONAL FACTS RE AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline [Standard 1.2(b)(i)]:

(a) State Bar case # of prior case: 92-O-10099 and 92-O-17637

(b) Date prior discipline effective: January 14, 1995

- (c) Rules of Professional Conduct/State Bar Act violations: Business and Professions Code sections 6106, 6125, 6126 and 6127 and Rules of Professional Conduct, rules 1-300(B), 3-700(B)(2), 4-100(A) and 4-100(B)(4)
- (d) Degree of prior discipline: a 30-day actual suspension, a one-year stayed suspension, and a two-year probation

Multiple Acts of Misconduct [Standard 1.2(b)(ii)]: Respondent committed a violation of Rules of Professional Conduct, rule 4-200(A) and two violations of Rules of Professional Conduct, rule 4-100(B)(4).

Additional Aggravating Circumstances: Respondent's prior record of discipline involved similar misconduct, i.e., a violation of Rules of Professional Conduct, rule 4-100(B)(4) and failing to properly handle advanced costs. (*In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 443-444 [prior discipline a serious aggravating circumstance because prior misconduct very similar to present misconduct].)

ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

Additional Mitigating Circumstances:

Recognition of Wrongdoing: Respondent has stipulated to misconduct at an early stage of the proceedings. Respondent thereby demonstrated his recognition of wrongdoing and cooperation with the State Bar and saved the State Bar's resources. (Standard 1.2(e)(v); *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 50.)

Character References: Respondent provided letters from three people attesting to Respondent's integrity, honesty, professionalism and overall good character: a certified public accountant whom has known Respondent both personally and professionally for approximately 30 years, whom has worked with Respondent, whom has hired Respondent to perform legal services for her, and whom has referred clients to Respondent; a business owner whom has known Respondent personally for over 30 years and whom has hired Respondent to represent him personally and his business in various legal matters and whom has referred Respondent to represent his wife in her personal matters; and a business owner whom has known Respondent personally and professionally for over 35 years, whom has hired Respondent to represent her in several legal matters and whom has referred Respondent to her former husband to handle legal matters for him. Respondent's character has not been attested to by a wide range of references in the legal and general communities. (*In the Matter of Duxbury* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61, 67 [four favorable character witnesses afforded little or no weight in mitigation].) However, all of these character references noted that they were aware of the Ventis' complaint against Respondent, so his character references are entitled to some weight in mitigation.

Health and Family Problems: For several years and at the time of the misconduct, Respondent was suffering from Crohn's disease which requires him to work from his home and limits how much work he can perform in a day. Respondent was also providing care for his wife who was hospitalized on several occasions before, during, and after his representation of the Ventis. His wife was hospitalized between July 21 and August 1, 2010 for a serious condition that required surgery and subsequent hospitalizations in February 2012 and February 2013. Also, in 2011, Respondent's mother became ill.

At the time of Respondent's misconduct, he was providing care to his mother. In September 2011, Respondent's mother suffered a fall and she died in late December 2011. Respondent devoted significant time and attention to provide care to his wife and mother. Further, dealing with their health issues and his own chronic condition and the death of his mother caused Respondent a great deal of stress.

Respondent has not provided an expert opinion that these factors had a nexus to his misconduct, but the time and attention that was devoted to caring for his family and the stress he suffered contributed to Respondent not properly handling the fees and not promptly refunding unused costs to the Ventis. (*In re Arnoff* (1978) 22 Cal.3d 740, 747 [domestic and health difficulties may be considered in mitigation of discipline for misconduct]; *In the Matter of Kaplan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547, 546 [limited mitigation for marital and family problems in absence of expert testimony establishing nexus to misconduct].)

AUTHORITIES SUPPORTING DISCIPLINE.

The Standards for Attorney Sanctions for Professional Misconduct provide a "process of fixing discipline" pursuant to a set of written principles to "better discharge the purposes of attorney discipline as announced by the Supreme Court." (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, Introduction (all further references to standards are to this source).) The primary purposes of disciplinary proceedings and of the sanctions imposed are "the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession." (*In re Morse* (1995) 11 Cal.4th 184, 205; std. 1.3.)

Although not binding, the standards are entitled to "great weight" and should be followed "whenever possible" in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) Any discipline recommendation different from that set forth in the applicable standards should clearly explain the reasons for the deviation. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Respondent admits to committing three acts of professional misconduct. Standard 1.6 (a) requires that where a Respondent acknowledges two or more acts of misconduct, and different sanctions are prescribed by the standards that apply to those acts, the sanction imposed shall be the more or most severe prescribed in the applicable standards.

The most severe sanction applicable to Respondent's misconduct is found in standard 2.2(b), which applies to Respondent's violations of Rules of Professional Conduct, rule 4-100(B)(4). Standard 2.2(b) provides that culpability of a member of the commission of another violation of rule 4-100, Rules of Professional Conduct, which does not involve wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances.

The gravamen of Respondent's misconduct was his failure to properly handle fees and costs paid by the Ventis. Respondent's failure to return the fees and costs to the Ventis was not dishonest but

caused by his mistaken and unreasonable belief that he was entitled to keep the funds. Respondent has a prior record of discipline which was imposed in 1995 and which involved his failure to promptly pay out all funds received from his client to pay expert witness fees and costs following settlement of the client's claim. While there is some similarity between Respondent's present and prior misconduct, his prior misconduct is remote in time as it occurred between May 1989 and February 1992. Respondent's prior misconduct ended approximately 19 years before his first misconduct in the present matter occurred in February 2011, when he failed to disclose his receipt of fees to the bankruptcy court. (*In the Matter of Hanson* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703, 713 [prior discipline not given significant weight and imposition of greater discipline in second matter unwarranted where last acts of misconduct occurred approximately 17 years before first acts of misconduct in second matter and prior misconduct minimal in nature] and *In the Matter of Shinn* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96, 105 [private reproof imposed more than 20 years earlier for improperly stopping payment on a \$500 check to another law firm too remote in time to merit significant weight on the issue of degree of discipline].) Many years passed without subsequent misconduct until the present matter. Also, the amount of the excess fee and unused costs that should have been promptly returned to his clients was relatively small and Respondent has returned the excess fee and unused costs, with interest, to mitigate the harm caused to his clients by his delay in returning the funds. Further, Respondent's present misconduct was surrounded by extenuating circumstances. His misconduct occurred at a time when his time and attention were divided between the needs of his family and his clients. For these reasons, a lower level of actual suspension than the minimum three months of actual suspension provided in standard 2.2(b) is warranted. An actual suspension of 60 days will protect the public, courts and the legal profession; the maintenance of high professional standards by attorneys, and the preservation of public confidence in the legal profession. (Standard 1.3.)

This disposition is consistent with Supreme Court case law involving trust account violations not involving dishonest conduct. (*Sternlieb v. State Bar* (1990) 52 Cal.3d 317 [30-day actual suspension for trust account violations resulting from attorney's unreasonable belief that her client authorized the attorney's use of entrusted funds to pay the attorney's fees].)

PENDING PROCEEDINGS.

The disclosure date referred to on page 2, paragraph A(7), was April 15, 2013.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed respondent that as of April 2, 2013, the prosecution costs in this matter are \$3,349. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational courses to be ordered as a condition of suspension. (Rules Proc. of State Bar, rule 3201.)


(Do not write above this line.)

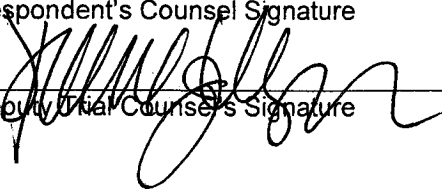
In the Matter of:
Christopher A. Radlinski

Case number(s):
12-O-11702

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

4/18/2013  Christopher A. Radlinski
Date Respondent's Signature Print Name

4/30/13  Diane J. Meyers
Date Deputy Trial Counsel's Signature Print Name

(Do not write above this line.)

In the Matter of:
Christopher A. Radlinski

Case Number(s):
12-O-11702

ACTUAL SUSPENSION ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

5/13/13

Date



DONALD F. MILES

Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on May 15, 2013, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**CHRISTOPHER A. RADLINSKI
LAW OFFICES OF CHRISTOPHER A.
RADLINSKI
45831 CORTE CARMELLO
TEMECULA, CA 92592**

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Diane J. Meyers, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 15, 2013.



Paul Barona
Case Administrator
State Bar Court